

HOUSE BILL NO. 77

INTRODUCED BY B. NOONEY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PUBLIC NOTICE OF PROPOSED OPENCUT OPERATIONS; AND AMENDING SECTION 82-4-432, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-4-432, MCA, is amended to read:

"82-4-432. Application for permit -- contents -- issuance -- amendment. (1) An application for a permit must be made using forms furnished by the department and must contain the following:

(a) the name of the applicant and, if other than the owner of the land, the name and address of the owner;

(b) the type of operation to be conducted;

(c) the estimated volume of overburden and materials to be removed;

(d) the location of the proposed opencut operation by legal description and county;

(e) the date when the opencut operation is proposed to commence; and

(f) a statement that the applicant has the legal right to mine the designated materials in the lands described.

(2) The application must be accompanied by:

(a) a bond or security meeting the requirements as set out in this part;

(b) a statement from the local governing body having jurisdiction over the area to be mined certifying that the proposed sand and gravel opencut operation complies with applicable local zoning regulations adopted under Title 76, chapter 2;

(c) a plan of operation that meets the requirements of 82-4-434; ~~and~~

(d) written documentation that the landowner has been consulted about the proposed plan of operation; and

(e) proof that public notice was provided. The notice must include the elements of subsection (1) and a map of the proposed opencut operation and the surrounding properties.

(3) To provide public notice, the applicant shall:

1 (a) publish notice at least twice in a newspaper of general circulation in the locality of the proposed
2 opencut operation;

3 (b) mail notice by certified mail to all property owners within 1,000 feet of the opencut operation using
4 the most current known property owners of record as shown in the records of the county clerk and recorder in
5 the county where the proposed opencut operation is located;

6 (c) mail notice by first-class mail to all property owners between 1,000 feet and 1 mile of the opencut
7 operation using the most current known property owners of record as shown in the records of the county clerk
8 and recorder in the county where the proposed opencut operation is located; and

9 (d) post notice in at least two prominent locations at the site of the proposed opencut operation and near
10 a public road if possible.

11 ~~(3)~~(4) If, prior to applying for a permit, a person notifies the department of the intention to submit an
12 application and requests that the department examine the area to be mined, the department shall examine the
13 area and make recommendations to the person regarding the proposed opencut operation. The person may
14 request a meeting with the department. The department shall hold a meeting if requested.

15 ~~(4)~~(5) (a) Except as provided in 75-1-208(4)(b), upon receipt of an application containing all items listed
16 in subsections (1) and (2), the department shall, within 30 days, review the application, inspect the proposed site,
17 and notify the person whether or not the department believes that the application is acceptable. An application
18 is acceptable if it complies with all requirements of subsections (1) and (2). If the department determines that the
19 application is not acceptable, the department shall include in the notification a detailed identification of all
20 deficiencies.

21 (b) Within 30 days of receipt of the applicant's responses to the identified deficiencies, the department
22 shall notify the applicant if the application is acceptable or not. If the application is unacceptable, the notice must
23 include a detailed explanation of the remaining deficiencies.

24 (c) The department may for sufficient cause extend either or both of the 30-day review periods for an
25 additional 30 days if it notifies the applicant of the extension prior to the end of the respective original 30-day
26 period. The department shall include in the notification of extension the reason for the extension.

27 (d) If the application is acceptable, the department shall issue a permit to the operator that entitles the
28 operator to engage in the opencut operation on the land described in the application.

29 ~~(5)~~(6) An operator may amend a permit by submitting an amendment application to the department.
30 Upon receipt of the amendment application, the department shall review it in accordance with the requirements

1 and procedures in subsection ~~(4)~~ (5). If the amendment application is acceptable, the department shall issue an
2 amendment to the original permit."

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